

HOUSE BILL 3353  
By Burchett

a\*39-17-9

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 3, Part 55 and Title 39, Chapter 17, Part 9, relative to Internet access on computers purchased with public funds.

WHEREAS, acknowledging the importance and emerging dependence of business, government and society on the Internet as a growing part of our system of communications and commerce; and

WHEREAS, recognizing that the Internet as a medium of free speech contains in addition to its many statutory features, potential dangers for society and especially our youth, in that it can provide uncontrolled and instantaneous access to obscenity, child pornography and other adult oriented materials that are harmful to youth; and

WHEREAS, recognizing that Congress realized this in 1996 and attempted to place restrictions on the Internet to curb these dangers by the passage of the Communications Decency Act of 1996, which was declared unconstitutional in part by the United States Supreme Court in the case of Reno v. ACLU; and

WHEREAS, recognizing that the Internet is in its infancy stages and software developments and other market forces are arising that may eventually allow Internet providers and users to more easily provide clean Internet services or products that will protect children

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from the harms of the Internet and adults who wish to block out harmful programming without compromising the beneficial aspects of the Internet; and

WHEREAS, acknowledging that the states are somewhat limited in what regulation they can provide in this area because of the federal commerce cause and laudable protection of free speech under the first amendment; and

WHEREAS, acknowledging that Congress is the appropriate governmental body to provide leadership in this area through constitutional regulation; and

WHEREAS, recognizing that during the interim, this state feels compelled to act to protect its citizens and youth in a manner that is within its constitutional authority; now, therefore

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1.

(a) The General Assembly does hereby urge the United States Congress to establish and maintain a uniform resource locator system that contains domain codes for all Internet addresses that would require all adult oriented sites to be designated in a particular code address so as to facilitate and assist Internet users, service providers and software developers to manage the problem of uncontrolled access to obscenity, child pornography and other adult oriented materials via the Internet.

(b) The secretary of state is hereby directed to cause copies of this enactment to be delivered to each member of the Tennessee delegation to the United States Senate and the United States House of Representatives.

SECTION 2. In accordance with Title 4, Chapter 5, the department of personnel shall:

(a) Promulgate rules governing the usage of state computers, the Internet and electronic mail by executive branch state employees and detailing the sanctions to be imposed for violations of such rules; and

(b) Promulgate similar policies suitable for adoption by the judicial and legislative branches of state government and by counties, cities and metropolitan governments.

By January 1, 1999, the appropriate authorities shall promulgate rules governing the usage of state computers, the Internet and electronic mail by judicial branch state employees and by legislative branch state employees. By January 1, 1999, counties, cities and metropolitan governments shall adopt rules governing the usage of governmental computers, the Internet and electronic mail by employees of such counties, cities and metropolitan governments.

### SECTION 3.

(a) Public schools that operate computers with Internet access that is available to children under eighteen (18) years of age shall install by January 1, 1999 and maintain thereafter, appropriate software that is client based or server based to shield users from adult obscene matter, children pornography and pornographic material that is harmful to minors.

(b) An administrator or other person responsible for maintaining such a computer, who knowingly fails to comply with the provisions of subsection (a), commits a Class C misdemeanor. A user of such a computer, who knowingly uninstalls or removes or otherwise circumvents such software, commits a Class C misdemeanor.

### SECTION 4.

(a) Public libraries that operate computers with Internet access that is available to children under eighteen (18) years of age shall take one of the following actions with respect to such computers:

(1) Install by January 1, 1999 and maintain thereafter, appropriate software that is client based or server based to shield users from adult obscene matter, children pornography and pornographic material that is harmful to minors;  
or

(2) Permit access to such computers by such children only when they are accompanied and monitored by their parent, guardian, or by other authorized adult or library personnel.

(b) An administrator or other person responsible for maintaining such a computer, who knowingly fails to comply with the provisions of subsection (a), commits a Class C misdemeanor. A user of such a computer, who knowingly uninstalls or removes or otherwise circumvents such software, commits a Class C misdemeanor.

SECTION 5. Nothing contained within the provisions of this or any other act shall be construed or implemented in any manner to require any library board of trustees or supervisory board or committee to provide as a resource, whether on the Internet or otherwise, any materials it determines to be obscene, pornographic or harmful to minors and no such body shall be subject to liability for any decision in that regard.

SECTION 6. Any Internet service provider that provides Internet services to a customer in Tennessee shall be strictly liable for the dissemination of obscene material, or child pornography or pornographic materials harmful to youth if such materials are provided via a paid subscription service, or by means of a free advertisement or viewing of such materials through its internet, if the service provider fails to restrict access to such site within five (5) working days of its receipt of written or electronic notice that such a site is being provided through its service delivery system. The Internet service provider shall be protected from liability under this section if the material is provided through a site that (1) requires written authorization of adulthood or the use of a credit card before it may be accessed, or (2) utilizes a subscriber access verification system that requires its member to initially provide written verification of adulthood or the use of a credit card.

#### SECTION 7.

(a) The information systems council shall timely develop and make available appropriate guidelines and technical assistance to aid state and local governments and public libraries in insuring compliance with the provisions of this Act.

(b) The council shall research and timely report to the General Assembly on the availability of client based and server based filtering software, their ability to effectively

employ such software on all Internet services provided by the state computer network to state and local users, and their recommendations on the implementation of a protection plan to improve upon and carry out the purposes of this Act.

SECTION 8. This act shall take effect July 1, 1999, the public welfare requiring it.